



**Bohemian Fairtrade Self Help Group (Suing through their Registered Officials:
Solomon Ommani (Chairman), Ibrahim Omare Ombasa (Secretary) & Wycliff
Odhiambo Wamalwa (Treasurer) v Amin (Environment and Land Case E036 of 2025)
[2026] KEELC 1508 (KLR) (Environment and Land) (12 March 2026) (Ruling)**

Neutral citation: [2026] KEELC 1508 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIVASHA
ENVIRONMENT AND LAND
ENVIRONMENT AND LAND CASE E036 OF 2025**

**MC OUNDO, J
MARCH 12, 2026**

BETWEEN

**BOHEMIAN FAIRTRADE SELF HELP GROUP (SUING THROUGH THEIR
REGISTERED OFFICIALS: SOLOMON OMMANI (CHAIRMAN), IBRAHIM
OMARE OMBASA (SECRETARY) & WYCLIFF ODHIAMBO WAMALWA
(TREASURER) PLAINTIFF**

AND

ABDUL AZIZ AMIN DEFENDANT

RULING

1. By Chamber Summons dated 24th November, 2025 brought pursuant to the provisions of Sections 4(1), 5(b), 27(b) and 28(1), 2 & 6 of the *Contempt of Court Act* Cap 8F, Section 3A of the *Civil Procedure Act* and all enabling provisions of the law the Plaintiffs herein sought for the following orders:
 - i. Spent.
 - ii. The honourable court be pleased to order the Defendant/Respondent Abdul Aziz Amin to be arrested and committed to civil jail for (6) months and/or suffer any other alternative sanctions prescribed or permissible in law for openly defying the express orders on maintenance of status quo as issued on 1st August 2025 and extended on 29th September 2025, 14th October 2025, 3rd November 2025 and 4th November 2025.
 - iii. That there be an order for removal of fences and beacons placed by or on instructions of the Defendant/ Respondent on the suit premises during the pendency of the orders of status quo as indicated in (ii) above.



- iv. That the orders of arrest of the said Abdul Aziz Amin and his production physically before the court be effected by the Officer Commanding Police Station (OCS) Kongoni Police Station.
- v. That costs of the application be borne by the Defendant/ Respondent.
2. The said application was supported by the grounds therein as well as the supporting Affidavit of an even date, sworn by Solomon Ommani, the Plaintiff's Chairman, who deponed that the dignity of the honourable court was in serious jeopardy, hence the court needed to act very urgently to protect its integrity and the sanctity of its own orders.
3. In summary, the reason for seeking the above-captioned orders was that interim orders for parties to maintain the status quo on all named suit premises were granted by the honourable court on 1st August 2025, pending further directions from the court. These orders had been served on the Defendant/ Respondent, who, through his counsel, filed a response to the pleadings. That the Defendant/ Respondent's counsel, Mr. P. Odhiambo, had been present on all occasions, including when the interim orders of status quo were extended.
4. That, nevertheless, the Defendant/Respondent, on various dates, specifically in November 2025, by himself and accompanied by his servants and/or agents, went on the ground and subdivided the suit premises, placing beacons and erecting fences, which acts were in utter defiance of the court's orders. That subsequently, the sanctity of the court's orders had been challenged, and the dignity of the court dangerously eroded by these acts of utter contempt despite repeated warnings from the Plaintiff/ Applicants' agents, who had visited the suit premises, alarmed at the furious activities being undertaken there.
5. He thus deposed that, for the sake of the court's dignity, it was necessary for the court to draw the line and act decisively so that the Defendant/Respondent could appreciate that a court of law does not issue orders in vain and is always prepared to uphold its orders to the end unless they are appealed against or varied.
6. That in any event, the Plaintiffs/ Applicants' lawyers had raised the issue of defiance of the court orders in court in the presence of the Defendant/ Respondent's lawyer wherein the court had advised the filing of a formal application on the same, but the Defendant/ Respondent had almost taken the said warning as the cue to even increase his illegal activities in the suit premises hence the prayer that he be committed to jail for contempt until he appreciates the sanctity of court proceedings and he apologizes and purges the contempt.
7. In response and in opposition to the Applicants' Application, the Defendant/Respondent, via a replying Affidavit of 5th January, 2026, deposed that contrary to the Applicant's allegations, he never participated in any subdivision, placement of beacons or fencing of the said property as alleged in the application, on various dates in November 2025.
8. , That if there had been any activity on the land, it was carried out by those who bought the property from his late father, Sayid Mohamed Amin, and had supporting documents in this regard.
9. That on the contrary, he had had some people arrested while fencing the suit premises after he had reported the matter to the DCI for investigations, since they were trespassers who wanted to grab the land.
10. He deponed that in 2019, his father had taken back his 17 plots and sold them to several individuals, leaving only a 5-acre parcel of land for himself.



11. That, on the contrary, it had been the Applicants who were in contempt of the honorable court's orders on preserving the status quo as they were the ones carrying out the illegal activities on the land, including subdivision and fencing.
12. He deponed that the orders sought by the Applicants should not issue as they had filed the instant Application with the sole intention of intimidating him. That he was a law-abiding citizen and would always obey court orders. He thus sought that the Application herein be dismissed with costs.
13. The Application was disposed of by way of written submissions where the Applicants, through their submissions dated 30th January, 2026 summarized the factual background of the matter before submitting that the Respondent had not shown any nexus to the suit premises since he was sued.
14. That whereas the Applicants had sued him as an ordinary trespasser, he claimed that his "ownership interests" stemmed from being a son of the original owner. That, unfortunately, the court could not whimsically decide ownership based on alleged kinship in the absence of evidence.
15. That whereas the Respondent had merely stated that he was the son to the original deceased owner, and further that the deceased had sold certain parts of the land to third parties, he had not produced a grant or any other court order showing that he was the legal representative of the deceased. That subsequently, the proceedings herein were further testament of the contempt of the court because the issue of lack of capacity had been raised several times, but the Respondent kept on acting as if the presiding court knew him and his connection with his alleged father.
16. That whereas the Plaintiff/Applicant had presented copies of title deeds as the basis for seeking orders of injunction at this interim level, the Respondent, who produced no documents in his name, had the temerity and audacity to crisscross the land and erect beacons and fences with utmost impunity. If that situation were to remain unchecked, it would be a recipe for a free-for-all, violent grabbing of the suit premises.
17. That the Respondent's response consisted of vague, untrue claims that the Applicants were the ones interfering with the suit premises. Further, the allegation that the Applicant was using the instant application to intimidate the Respondent was virtually laughable since he was still crisscrossing the suit premises, placing beacons, even after the orders of maintenance of status quo had been confirmed in December 2025. Reliance was placed in the decided case of Ahmed Rashid Abdi vs Alinur Abdi Adan & another (High Court sitting at Marsabit- Civil Appeal No. E010 of 2024).
18. They submitted that the court should take a firm hand in punishing the Respondent who had consistently belittled and ignored a clear court order so that the same is not taken as a mere suggestion to be obeyed at a whim. That the Respondent should also be ordered to purge the contempt by removing fences and beacons which he placed while the case was ongoing.
19. The Defendant/Respondent's submissions dated 24th November, 2025, on the other hand, after summarizing the factual background of the matter, were a reiteration of his Replying Affidavit verbatim. He submitted that the Applicants, as it was their duty, had not proved in any way that he was in contempt of the court's orders. That the elements of contempt went beyond a reasonable doubt, at least higher than the standard in civil cases, since the liberty of the Defendant could be affected. It was therefore incumbent upon the Applicant to prove that the Defendant's conduct had been deliberate in the sense that he had deliberately or willfully acted in a manner that breached the order.
20. He submitted that the power to commit one for contempt was to be exercised with great care, where the order committing a person to prison for contempt was to be adopted only as a last resort. He thus sought that the instant Application be dismissed with costs. He placed reliance in the decided cases of



Katsuri Limited v Kapurchand Deepar Shah [2016] KEHC 6447 (KLR) and Samuel M.N. Mweru & others v National Land Commission & 2 others [2020] KEHC 9233 (KLR), which were dismissed for failure to prove the elements of contempt to the required standard.

Determination.

21. I have considered the Plaintiffs/Applicants' application dated the 24th November 2025, as well as the Defendant/Respondent's response vide his Replying Affidavit sworn on the 5th January 2026. I have also considered the parties' written submissions, the authorities cited and the applicable law.
22. Vide a ruling delivered by this court the 11th December 2025, the court had directed as follows;
"The order of status quo to be maintained by all with the understanding that the Plaintiff/Applicant' is in possession and occupation of the suit property Title No. LR Naivasha/Maraigushu Block 10/991, and LR Naivasha/Maraigushu Block 10/358- 373 (Kedong), as at the time of filing the instant suit and therefore there shall not be any eviction and/or disruption of the said occupation.
The Applicants shall also not deal with the land adversely.
Such status quo is to be maintained by all parties until the matter is finally heard and determined. "
23. The Applicants now bring their application for contempt proceedings against the Respondent on a complaint that, when the court granted interim orders on the 1st August 2025, directing the parties to maintain the status quo on all named suit premises, pending further directions, these orders were served on the Defendant/Respondent, who, through his counsel, filed a response to the pleadings and had been present on all occasions, including when the interim orders of status quo were extended.
24. That, nevertheless, the Defendant/Respondent, on various dates, specifically in November 2025, by himself and accompanied by his servants and/or agents, went on the ground and subdivided the suit premises, placing beacons and erecting fences in total disregard of the court's orders.
25. The Plaintiffs contend that the Defendant's actions have eroded the dignity and sanctity of the court. They argue that the court must act decisively to demonstrate that its orders are not issued in vain and to ensure that the Defendant purges his contempt by removing fences and beacons which he placed while the case was ongoing.
26. The Respondent, on the other hand, categorically denied participating in any subdivision, fencing, or placement of beacons on the suit property during November 2025. He maintained that he had not defied any court orders.
27. He provided a different account of the activities on the land to the effect that any ongoing activity was carried out by individuals who purchased portions of the property from his late father, Sayid Mohamed Amin, after he had reclaimed 17 plots in 2019, and sold them to various buyers who hold valid ownership documents.
28. He then shifted the blame to the Plaintiffs, asserting that they were the ones who were in contempt of the status quo orders by engaging in illegal subdivision and fencing. Previously, he had reported these trespassers to the DCI, which had led to the arrest of individuals who had attempted to fence the land. That the application for contempt was therefore filed solely to intimidate him, yet he is a law-abiding citizen who respects the sanctity of the court. He sought that the application be dismissed with costs awarded to him.



29. The Black's Law Dictionary (Ninth Edition) defines contempt of court as:-

“Conduct that defies the authority or dignity of a court. Because such conduct interferes with the administration of justice, it is punishable usually by fine or imprisonment.”

30. The law guiding the present Application is Order 40 Rule 3(1) of the Civil Procedure Rules which stipulates as follows: -

“In cases of disobedience, or of breach of any such terms, the Court granting an injunction may order the property of the person guilty of such disobedience or breach to be attached, and may also order such person to be detained in prison for a term not exceeding six months unless in the meantime the Court directs his release.”

31. Section 29 of the *Environment and Land Court Act* is clear to the effect that;

“Any person who refuses, fails or neglects to obey an order or direction of the Court given under this Act, commits an offence, and shall, on conviction, be liable to a fine not exceeding twenty million shillings or to imprisonment for a term not exceeding two years, or to both.”

32. The Court of Appeal, in its Judgement of 11th April 2025 in the case of *Wekesa & 2 others v Munialo* [2025] KECA 679 (KLR), held as follows;

“It is an established principle of law that in order to succeed in civil contempt proceedings, the applicant has to prove (i) the terms of the order, (ii) Knowledge of these terms by the Respondent, (iii). Failure by the Respondent to comply with the terms of the order. Upon proof of these requirements the presence of willfulness and bad faith on the part of the Respondent would normally be inferred, but the Respondent could rebut this inference by contrary proof on a balance of probabilities.

Perhaps the most comprehensive of the elements of civil contempt was stated by the learned authors of the book *Contempt in Modern New Zealand*, who succinctly stated: a. the terms of the order (or injunction or undertaking) were clear and unambiguous and were binding on the defendant;

b. the defendant had knowledge of or proper notice of the terms of the order;

(c) the defendant has acted in breach of the terms of the order;

There are essentially four elements that must be proved to make the case for civil contempt. The applicant must prove to the required standard (in civil contempt cases which is higher than civil cases) that: (d) the defendant's conduct was deliberate.”

33. Having so found, from the application, the response, the sworn affidavits, submissions by Counsel, the applicable law and the decided authorities, the following issues stand out for determination:

- i. Whether there was a valid order of the court issued on 1st August 2025 and extended on 29th September 2025, 14th October 2025, 3rd November 2025 and 4th November 2025.
- ii. Whether the Respondent was served with or made aware of these orders.
- iii. Whether the Respondent herein deliberately and willfully failed to comply with the terms of the order and is guilty of contempt of the said Court orders.



34. On the first issue for determination as to whether there had been a valid order issued by the court on 1st August 2025 and extended on 29th September 2025, 14th October 2025, 3rd November 2025 and 4th November 2025, the Court of Appeal in the case of *Mugah –v- Kunga* [1988] KLR 748, held that in land matters, status quo orders should always be issued for purposes of preserving the subject matter. The court’s practice directions, vide Gazette Notice No. 3461/2025, Practice Direction No. 23(1), give the court the leeway and discretion to make an order for parties to maintain the status quo until the determination of the case.
35. Going by the court’s proceeding, pursuant to an application dated the 24th July 2025, on the 1st August 2025, the Court issued ex-parte interim orders of injunction to the effect that “parties shall maintain the status quo pending in that the suit properties shall not be dealt with adversely.” I find that indeed vide its directions of 1st August 2025 and extended on 29th September 2025, 14th October 2025, 3rd November 2025 and 4th November 2025, the Court had issued a valid order.
36. On the second issue as to whether the Respondent had been served with or made aware of the said court order, I have perused the proceedings, and noted that pursuant to the issuance of the ex parte orders of 1st August 2025, vide an affidavit of service, sworn on the 5th August 2025, the express ex-parte interim orders were served upon the Respondent through his mobile phone No. 0722520660 on 30th July 2025. The affidavit of service was attached with a WhatsApp extract where he had responded to the service as follows: “Shamba si ya mama yako”, meaning “the land is not your mother’s”.
37. On the 29th September 2025, the interim orders were extended in the presence of the Respondents’ incoming Counsel, Mr Odhiambo, who was granted leave to properly come on record. The Respondent subsequently filed their response vide a replying affidavit sworn on 29th September 2025. On the 14th October 2025, the interim orders were extended in the absence of both the Respondent and/or his representative.
38. On the 3rd November 2025, the same orders were extended in the presence of the Respondent’s counsel wherein on the 4th November 2025, when the matter was mentioned to confirm whether the Respondents had made payments, due to an error in the system on the previous day, the interim orders had again been extended, in the absence of the Respondent’s counsel. Subsequently, a ruling on the application (24th July 2025) was delivered on 11th December 2025, affirming the court’s orders.
39. The Court of Appeal in the *Shimmers Plaza Limited v National Bank of Kenya Limited* [2015] eKLR had held as follows:

“Kenya’s growing jurisprudence right from the High court has reiterated that knowledge of a court order suffices to prove service and dispense with personal service for the purposes of contempt proceedings. For instance, Lenaola J in the case of *Basil Criticos Vs Attorney General and 8 Others* [2012] eKLR pronounced himself as follows:-

“...the law has changed and as it stands today knowledge supersedes personal service.....where a party clearly acts and shows that he had knowledge of a Court Order; the strict requirement that personal service must be proved is rendered unnecessary”

This position has been affirmed by this Court in several other cases including the *Wambora* case (supra).Would the knowledge of the judgment or order by the advocate of the alleged contemnor suffice for contempt proceedings? We hold the view that it does. This is more so in a case such as this one where the advocate was in Court representing the alleged contemnor and the orders were made in his



presence. There is an assumption which is not unfounded, and which in our view is irrefutable to the effect that when an advocate appears in court on instructions of a party, then it behoves him/her to report back to the client all that transpired in court that has a bearing on the client's case.

This is the position in other jurisdictions within and outside the commonwealth.”

40. It can be seen from the above holding which is binding to this court that the Court of Appeal had made a significant finding that relaxed the strict requirement for personal service in contempt proceedings. The court held that jurisprudence had gradually moved beyond the necessity of personal service of orders to focus on whether the alleged contemnor had actual knowledge of the terms of the court order. It held that, provided it could be shown that the person alleged to be in contempt was aware of the terms of the court order, the fact that the order was not complied with did not vitiate the contempt proceedings. The primary consideration thus shifted to the substantive issue of awareness and willful disobedience of the court's command. I find that the parties herein all had actual knowledge of the terms of the court order, and therefore, personal service was unnecessary.
41. Lastly, as to whether the Defendant/Respondent herein deliberately and willfully failed to comply with the terms of the said order, and is therefore guilty of contempt of Court orders, the Applicant's complaint had been that during the month of November 2025, and in the pendency of status quo orders, the Applicant had subdivided the suit land, erected fences, and placed beacons thereon. Their complaint was supported by pictorial evidence annexed as “SO6” to the sworn affidavit of Solomon Ommani, the Applicant's chairman.
42. While there had been a response from the Respondent, the same was basically a denial of the acts complained of and was unconvincing or insufficient against the detailed and specific allegations by the Applicants. The Respondent's response when served with the pleadings and the court's direction to the effect that “shamba si ya mama yako” not only displayed his lack of appreciation of the sanctity of court proceedings but that he had no respect for the rule of law.
43. A court order to maintain the status quo is a directive to the parties to preserve the current state of affairs and to take no action that would alter the subject matter of the dispute until further directions or until the matter is heard and determined. The act of subdividing the suit land, erecting fences, and placing beacons thereon in the face of such an order is a direct and wilful act of defiance against the court and the rule of law.
44. Romer L.J in *Hadkinson vs. Hadkinson*(1952) ALL ER 567 stated as follows:

“It is the plain and unqualified obligation of every person, against, or in respect of, whom an order is made by a Court of competent jurisdiction to obey it unless and until that order is discharged. The uncompromising nature of this obligation is shown by the fact that it extends even to cases where the person affected by an order believes it to be irregular or even void”
45. It is therefore mandatory that, unless and until a Court order is discharged, it ought to be obeyed. Indeed, the Court of Appeal in *Central Bank of Kenya & Another vs. Ratilal Automobiles Limited & Others*, Civil Application No. Nairobi 247 of 2006 held that it is a fundamental tenet of the rule of law that Court orders must be obeyed, and that it is not open to any person or persons to choose whether to comply with or ignore such orders as directed to him or them by a Court of law.
46. In the case of *Awadh vs. Marumbu* (No. 2) No. 53 of 2001 (2004) KLR 458, the Court held that it is the duty of the Court not to condone deliberate disobedience of its orders nor waiver from its responsibility to deal decisively and firmly with the approved contemnors.



47. The Supreme Court of Kenya in *Republic v Ahmad Abolfathi Mohammed & Another* [2018] eKLR held that;

“The power, to commit a person to jail, must be exercised with utmost care, and exercised only as a last resort. It is of utmost importance, therefore, for the Respondents to establish that the alleged Contemnor’s conduct was deliberate, in the sense that he or she willfully acted in a manner that flouted the Court Order.”

48. It is therefore trite that contempt of Court proceedings and Applications are subtle and criminal in nature and would impose criminal sanctions if a conviction followed. Having found that the Respondent had actual knowledge of the status quo order but went ahead to commit the impugned activities, is sufficient to find that he was in contempt. His actions in the pendency of a status quo order are a clear example of the precise action the court seeks to prevent, and the courts treat such blatant disregard with the utmost seriousness to uphold the dignity and authority of the judicial process.

49. Being mindful that the burden of proof in contempt proceedings is higher than that in a normal civil matter because such proceedings have the potential of impacting the rights of a party who may end up being committed to civil jail, I thus find the Applicant’s applications dated the 24th November, 2025, merited.

50. The Respondent, Abdul Aziz Amin, I find, was in blatant, deliberate and intentional violation of the court’s dignity, repute and authority wherein his conduct substantially adversely interfered with the substratum of the matter. I thus find him in contempt of the court order of 1st August 2025, which was extended on 29th September 2025, 14th October 2025, 3rd November 2025, and 4th November 2025, and will accordingly proceed to punish him.

DATED AND DELIVERED VIA MICROSOFT TEAMS AT NAIVASHA THIS 12TH DAY OF MARCH 2026.

M.C. OUNDO

ENVIRONMENT & LAND COURT– JUDGE

